

House Engrossed

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

# HOUSE BILL 2109

AN ACT

AMENDING SECTIONS 9-956, 38-822, 38-860 AND 38-910, ARIZONA REVISED STATUTES;  
RELATING TO PUBLIC RETIREMENT SYSTEMS AND PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-956, Arizona Revised Statutes, is amended to  
3 read:

4 9-956. Annual audit; report of secretary; sanction

5 A. The board shall cause an annual audit and report of the fund.

6 B. The secretary shall report, using a form approved by the state fire  
7 marshal, annually on or before January 1 to the board the condition of the  
8 fund and the receipts and disbursements, with a complete list of its  
9 beneficiaries and the amounts paid.

10 C. The board shall send a copy of the annual audit and report of the  
11 fund to the state fire marshal and the Arizona state library, archives and  
12 public records.

13 D. If the annual pension fund report is not received by January 31 by  
14 the state fire marshal the participating INCORPORATED CITY OR TOWN OR fire  
15 district is not eligible to receive its share of fire insurance premium tax  
16 monies under section 9-952.

17 Sec. 2. Section 38-822, Arizona Revised Statutes, is amended to read:

18 38-822. Domestic relations orders; procedures; payments

19 A. Notwithstanding any other law, in a judicial proceeding for  
20 annulment, dissolution of marriage or legal separation that provides for the  
21 distribution of community property, or in any judicial proceeding to amend or  
22 enforce such a property distribution, a court in this state may issue a  
23 domestic relations order that provides that all or any part of a  
24 participant's benefit or refund in the plan that would otherwise be payable  
25 to that participant shall instead be paid by the plan to an alternate payee.

26 B. A domestic relations order is not effective against the plan unless  
27 the domestic relations order is approved by the plan and qualifies as a plan  
28 approved domestic relations order. To qualify as a plan approved domestic  
29 relations order, a domestic relations order shall comply with any policies or  
30 procedures adopted pursuant to subsection K and shall also meet all of the  
31 following requirements:

32 1. The domestic relations order shall state the name and the last  
33 known mailing address of the participant and the name and last known mailing  
34 address of the alternate payee that is covered by the domestic relations  
35 order.

36 2. The domestic relations order shall clearly state the amount or  
37 percentage of the participant's benefits that is payable by the plan to the  
38 alternate payee or the precise manner in which the amount or percentage is to  
39 be determined.

40 3. The domestic relations order shall state the number of payments or  
41 periods to which the domestic relations order applies, if applicable.

42 4. The domestic relations order shall state that the domestic  
43 relations order applies to the plan.

1           5. The domestic relations order shall not require the plan to provide  
2 any type or form of benefit or any option not otherwise provided by this  
3 article.

4           6. The domestic relations order shall not require the plan to provide  
5 increased benefits determined on the basis of actuarial value.

6           7. The domestic relations order shall not require the payment of  
7 benefits to an alternate payee if the benefits are required to be paid to  
8 another alternate payee under a separate plan approved domestic relations  
9 order.

10          C. On receipt by the plan of a certified copy of a domestic relations  
11 order and a written request for a determination that the domestic relations  
12 order is a plan approved domestic relations order, the plan shall promptly  
13 issue a written notice of receipt stating that the domestic relations order  
14 and request were received to the participant and alternate payee at the  
15 addresses on file, if any.

16          D. The plan has a determination period to issue a written  
17 determination indicating whether a domestic relations order qualifies as a  
18 plan approved domestic relations order. If the participant is receiving  
19 benefits during the determination period, and if the plan can determine the  
20 amount of the benefits that currently would be payable to the alternate payee  
21 if the domestic relations order were a plan approved domestic relations  
22 order, the plan shall ~~segregate the amount~~ HOLD THE SEGREGATED FUNDS and  
23 shall pay the remaining portion of the benefits to the participant. If the  
24 plan determines the domestic relations order is a plan approved domestic  
25 relations order, the plan shall pay the participant and alternate payee  
26 pursuant to the plan approved domestic relations order ~~on the first day of~~ IN  
27 the month following the month in which the determination was issued, or ~~the~~  
28 ~~first day of~~ IN the month following the month in which a benefit is payable  
29 under the plan approved domestic relations order, whichever is later. If the  
30 plan determines the domestic relations order fails to qualify as a plan  
31 approved domestic relations order, the plan shall specify in its  
32 determination how the domestic relations order is deficient and how it may be  
33 amended to qualify as a plan approved domestic relations order. If the  
34 participant is currently receiving benefits, and if the plan can determine  
35 the amount of segregated funds that would be payable to the alternate payee  
36 if the domestic relations order were a plan approved domestic relations  
37 order, the plan shall hold the segregated funds during the cure period to  
38 allow the parties to submit a certified copy of an amended domestic relations  
39 order and a written request for a determination that the amended domestic  
40 relations order is a plan approved domestic relations order. During the cure  
41 period, the plan shall pay the participant's portion to the participant. At  
42 the end of the cure period, if the issue of whether an amended domestic  
43 relations order qualifies as a plan approved domestic relations order remains  
44 undetermined or if an amended domestic relations order is determined not to  
45 be a plan approved domestic relations order, the plan shall pay the

1 segregated funds and the participant's portion to the participant. The  
2 participant shall hold the segregated funds in trust for the alternate payee  
3 as provided in subsection J. If an amended domestic relations order that is  
4 submitted after the expiration of the cure period is determined to be a plan  
5 approved domestic relations order, the plan shall make payments to an  
6 alternate payee under the plan approved domestic relations order only  
7 prospectively. A determination by the plan that a domestic relations order  
8 is not a plan approved domestic relations order does not prohibit a  
9 participant or alternate payee from submitting an amended domestic relations  
10 order to the plan.

11 E. Each participant and alternate payee is responsible for maintaining  
12 a current mailing address on file with the plan. The plan has no duty to  
13 attempt to locate any participant or alternate payee. The plan has no duty  
14 to provide a notice of receipt or determination or pay benefits by means  
15 other than mailing the notice or payments to the participant or alternate  
16 payee at the last known address that is on file with the plan. If the  
17 address of an alternate payee is unknown to the plan, but benefits are  
18 payable to the alternate payee pursuant to a plan approved domestic relations  
19 order, the plan shall either:

20 1. Hold the alternate payee's portion until such a time as the  
21 alternate payee provides the plan with a current address. **ONCE THE PLAN IS**  
22 **NOTIFIED OF THE ALTERNATE PAYEE'S CURRENT ADDRESS, THE PLAN SHALL**  
23 **PROSPECTIVELY PAY THE ALTERNATE PAYEE'S PORTION TO THE ALTERNATE PAYEE.**

24 2. Pay the alternate payee's portion to the participant, who shall  
25 hold the alternate payee's portion in trust as provided in subsection J,  
26 until such a time as the alternate payee is located. At that time the  
27 participant shall pay the alternate payee's portion directly to the alternate  
28 payee.

29 ~~F. Once the plan is notified of the alternate payee's current address,~~  
30 ~~the plan shall prospectively pay the alternate payee's portion to the~~  
31 ~~alternate payee.~~ If the address of a participant is unknown to the plan, but  
32 benefits are payable to the participant pursuant to a plan approved domestic  
33 relations order, the plan shall hold the participant's portion until the  
34 participant provides the plan with a current address.

35 G. If the alternate payee identified in a plan approved domestic  
36 relations order predeceases the participant and the plan approved domestic  
37 relations order does not otherwise provide for the disposition of the  
38 alternate payee's interest the plan shall pay the alternate payee's portion  
39 to the personal representative of the deceased alternate payee pursuant to  
40 this subsection. **THE PERSONAL REPRESENTATIVE IS RESPONSIBLE FOR MAINTAINING**  
41 **A CURRENT MAILING ADDRESS ON FILE WITH THE PLAN. THE PLAN HAS NO DUTY TO**  
42 **ATTEMPT TO LOCATE ANY PERSONAL REPRESENTATIVE.** The plan is not responsible  
43 for making benefit payments to a personal representative until the personal  
44 representative has **BOTH:**

1           1. Persuaded the plan that the personal representative is authorized  
2 to receive payments designated for the deceased alternate payee.

3           2. Provided the plan with an address to which the payments should be  
4 sent. ~~The personal representative is responsible for maintaining a current~~  
5 ~~mailing address on file with the plan. The plan has no duty to attempt to~~  
6 ~~locate any personal representative.~~

7           H. If, within thirty days after the date the plan verifies an  
8 alternate payee's death, a personal representative does not make demand on  
9 the plan for the alternate payee's portion, the plan shall either:

10          1. Hold the alternate payee's portion until the time a personal  
11 representative makes a proper demand for payment of the alternate payee's  
12 portion.

13          2. Remit the alternate payee's portion to the participant, who shall  
14 hold the amounts in trust for the estate of the alternate payee until the  
15 personal representative is identified. At that time the participant shall  
16 pay the alternate payee's portion paid by the plan to the participant to the  
17 personal representative.

18          Thereafter, the plan shall prospectively pay the alternate payee's portion to  
19 the personal representative.

20          I. Amounts held or paid pursuant to this section shall not accrue  
21 interest unless otherwise prescribed by this article.

22          J. The plan is not liable to the participant, the alternate payee, any  
23 personal representative of the estate of an alternate payee or any other  
24 person for any amount paid, withheld or disbursed by the plan pursuant to  
25 this section. If one or more payments are made by the plan to a person not  
26 otherwise entitled to receive the payments, the recipient of the payment is  
27 designated a constructive trustee for the payment received and, together with  
28 the marital community, if any, is the sole party against whom an action may  
29 be brought to recover the payment.

30          K. The plan may adopt policies and procedures that govern the  
31 implementation of this section.

32          Sec. 3. Section 38-860, Arizona Revised Statutes, is amended to read:

33          38-860. Domestic relations orders; procedures; payments

34          A. Notwithstanding any other law, in a judicial proceeding for  
35 annulment, dissolution of marriage or legal separation that provides for the  
36 distribution of community property, or in any judicial proceeding to amend or  
37 enforce such a property distribution, a court in this state may issue a  
38 domestic relations order that provides that all or any part of a  
39 participant's benefit or refund in the system that would otherwise be payable  
40 to that participant shall instead be paid by the system to an alternate  
41 payee.

42          B. A domestic relations order is not effective against the system  
43 unless the domestic relations order is approved by the system and qualifies  
44 as a plan approved domestic relations order. To qualify as a plan approved  
45 domestic relations order, a domestic relations order shall comply with any

1 policies or procedures adopted pursuant to subsection K and shall also meet  
2 all of the following requirements:

3 1. The domestic relations order shall state the name and the last  
4 known mailing address of the participant and the name and last known mailing  
5 address of the alternate payee that is covered by the domestic relations  
6 order.

7 2. The domestic relations order shall clearly state the amount or  
8 percentage of the participant's benefits that is payable by the system to the  
9 alternate payee or the precise manner in which the amount or percentage is to  
10 be determined.

11 3. The domestic relations order shall state the number of payments or  
12 periods to which the domestic relations order applies, if applicable.

13 4. The domestic relations order shall state that the domestic  
14 relations order applies to the system.

15 5. The domestic relations order shall not require the system to  
16 provide any type or form of benefit or any option not otherwise provided by  
17 this article.

18 6. The domestic relations order shall not require the system to  
19 provide increased benefits determined on the basis of actuarial value.

20 7. The domestic relations order shall not require the payment of  
21 benefits to an alternate payee if the benefits are required to be paid to  
22 another alternate payee under a separate plan approved domestic relations  
23 order.

24 C. On receipt by the system of a certified copy of a domestic  
25 relations order and a written request for a determination that the domestic  
26 relations order is a plan approved domestic relations order, the system shall  
27 promptly issue a written notice of receipt stating that the domestic  
28 relations order and request were received to the participant and alternate  
29 payee at the addresses on file, if any.

30 D. The system has a determination period to issue a written  
31 determination indicating whether a domestic relations order qualifies as a  
32 plan approved domestic relations order. If the participant is receiving  
33 benefits during the determination period, and if the system can determine the  
34 amount of the benefits that currently would be payable to the alternate payee  
35 if the domestic relations order were a plan approved domestic relations  
36 order, the system shall ~~segregate the amount~~ HOLD THE SEGREGATED FUNDS and  
37 shall pay the remaining portion of the benefits to the participant. If the  
38 system determines the domestic relations order is a plan approved domestic  
39 relations order, the system shall pay the participant and alternate payee  
40 pursuant to the plan approved domestic relations order ~~on the first day of IN~~  
41 the month following the month in which the determination was issued, or ~~the~~  
42 ~~first day of IN~~ the month following the month in which a benefit is payable  
43 under the plan approved domestic relations order, whichever is later. If the  
44 system determines the domestic relations order fails to qualify as a plan  
45 approved domestic relations order, the system shall specify in its

1 determination how the domestic relations order is deficient and how it may be  
2 amended to qualify as a plan approved domestic relations order. If the  
3 participant is currently receiving benefits, and if the system can determine  
4 the amount of segregated funds that would be payable to the alternate payee  
5 if the domestic relations order were a plan approved domestic relations  
6 order, the system shall hold the segregated funds during the cure period to  
7 allow the parties to submit a certified copy of an amended domestic relations  
8 order and a written request for a determination that the amended domestic  
9 relations order is a plan approved domestic relations order. During the cure  
10 period, the system shall pay the participant's portion to the participant.  
11 At the end of the cure period, if the issue of whether an amended domestic  
12 relations order qualifies as a plan approved domestic relations order remains  
13 undetermined or if an amended domestic relations order is determined not to  
14 be a plan approved domestic relations order, the system shall pay the  
15 segregated funds and the participant's portion to the participant. The  
16 participant shall hold the segregated funds in trust for the alternate payee  
17 as provided in subsection J. If an amended domestic relations order that is  
18 submitted after the expiration of the cure period is determined to be a plan  
19 approved domestic relations order, the system shall make payments to an  
20 alternate payee under the plan approved domestic relations order only  
21 prospectively. A determination by the system that a domestic relations order  
22 is not a plan approved domestic relations order does not prohibit a  
23 participant or alternate payee from submitting an amended domestic relations  
24 order to the system.

25 E. Each participant and alternate payee is responsible for maintaining  
26 a current mailing address on file with the system. The system has no duty to  
27 attempt to locate any participant or alternate payee. The system has no duty  
28 to provide a notice of receipt or determination or pay benefits by means  
29 other than mailing the notice or payments to the participant or alternate  
30 payee at the last known address that is on file with the system. If the  
31 address of an alternate payee is unknown to the system, but benefits are  
32 payable to the alternate payee pursuant to a plan approved domestic relations  
33 order, the system shall either:

34 1. Hold the alternate payee's portion until such a time as the  
35 alternate payee provides the system with a current address. **ONCE THE SYSTEM  
36 IS NOTIFIED OF THE ALTERNATE PAYEE'S CURRENT ADDRESS, THE SYSTEM SHALL  
37 PROSPECTIVELY PAY THE ALTERNATE PAYEE'S PORTION TO THE ALTERNATE PAYEE.**

38 2. Pay the alternate payee's portion to the participant, who shall  
39 hold the alternate payee's portion in trust as provided in subsection J,  
40 until such a time as the alternate payee is located. At that time the  
41 participant shall pay the alternate payee's portion directly to the alternate  
42 payee.

43 F. ~~Once the system is notified of the alternate payee's current~~  
44 ~~address, the system shall prospectively pay the alternate payee's portion to~~  
45 ~~the alternate payee.~~ If the address of a participant is unknown to the

1 system, but benefits are payable to the participant pursuant to a plan  
2 approved domestic relations order, the system shall hold the participant's  
3 portion until the participant provides the system with a current address.

4 G. If the alternate payee identified in a plan approved domestic  
5 relations order predeceases the participant and the plan approved domestic  
6 relations order does not otherwise provide for the disposition of the  
7 alternate payee's interest the system shall pay the alternate payee's portion  
8 to the personal representative of the deceased alternate payee pursuant to  
9 this subsection. **THE PERSONAL REPRESENTATIVE IS RESPONSIBLE FOR MAINTAINING**  
10 **A CURRENT MAILING ADDRESS ON FILE WITH THE SYSTEM. THE SYSTEM HAS NO DUTY TO**  
11 **ATTEMPT TO LOCATE ANY PERSONAL REPRESENTATIVE.** The system is not responsible  
12 for making benefit payments to a personal representative until the personal  
13 representative has **BOTH**:

14 1. Persuaded the system that the personal representative is authorized  
15 to receive payments designated for the deceased alternate payee.

16 2. Provided the system with an address to which the payments should be  
17 sent. ~~The personal representative is responsible for maintaining a current~~  
18 ~~mailing address on file with the system. The system has no duty to attempt~~  
19 ~~to locate any personal representative.~~

20 H. If, within thirty days after the date the system verifies an  
21 alternate payee's death, a personal representative does not make demand on  
22 the system for the alternate payee's portion, the system shall either:

23 1. Hold the alternate payee's portion until the time a personal  
24 representative makes a proper demand for payment of the alternate payee's  
25 portion.

26 2. Remit the alternate payee's portion to the participant, who shall  
27 hold the amounts in trust for the estate of the alternate payee until the  
28 personal representative is identified. At that time the participant shall  
29 pay the alternate payee's portion paid by the system to the participant to  
30 the personal representative.

31 Thereafter, the plan shall prospectively pay the alternate payee's portion to  
32 the personal representative.

33 I. Amounts held or paid pursuant to this section shall not accrue  
34 interest unless otherwise prescribed by this article.

35 J. The system is not liable to the participant, the alternate payee,  
36 any personal representative of the estate of an alternate payee or any other  
37 person for any amount paid, withheld or disbursed by the system pursuant to  
38 this section. If one or more payments are made by the system to a person not  
39 otherwise entitled to receive the payments, the recipient of the payment is  
40 designated a constructive trustee for the payment received and, together with  
41 the marital community, if any, is the sole party against whom an action may  
42 be brought to recover the payment.

43 K. The system may adopt policies and procedures that govern the  
44 implementation of this section.



1       Sec. 4. Section 38-910, Arizona Revised Statutes, is amended to read:  
2       38-910. Domestic relations orders; procedures; payments

3       A. Notwithstanding any other law, in a judicial proceeding for  
4 annulment, dissolution of marriage or legal separation that provides for the  
5 distribution of community property, or in any judicial proceeding to amend or  
6 enforce such a property distribution, a court in this state may issue a  
7 domestic relations order that provides that all or any part of a  
8 participant's benefit or refund in the plan that would otherwise be payable  
9 to that participant shall instead be paid by the plan to an alternate payee.

10       B. A domestic relations order is not effective against the plan unless  
11 the domestic relations order is approved by the plan and qualifies as a plan  
12 approved domestic relations order. To qualify as a plan approved domestic  
13 relations order, a domestic relations order shall comply with any policies or  
14 procedures adopted pursuant to subsection K and shall also meet all of the  
15 following requirements:

16       1. The domestic relations order shall state the name and the last  
17 known mailing address of the participant and the name and last known mailing  
18 address of the alternate payee that is covered by the domestic relations  
19 order.

20       2. The domestic relations order shall clearly state the amount or  
21 percentage of the participant's benefits that is payable by the plan to the  
22 alternate payee or the precise manner in which the amount or percentage is to  
23 be determined.

24       3. The domestic relations order shall state the number of payments or  
25 periods to which the domestic relations order applies, if applicable.

26       4. The domestic relations order shall state that the domestic  
27 relations order applies to the plan.

28       5. The domestic relations order shall not require the plan to provide  
29 any type or form of benefit or any option not otherwise provided by this  
30 article.

31       6. The domestic relations order shall not require the plan to provide  
32 increased benefits determined on the basis of actuarial value.

33       7. The domestic relations order shall not require the payment of  
34 benefits to an alternate payee if the benefits are required to be paid to  
35 another alternate payee under a separate plan approved domestic relations  
36 order.

37       C. On receipt by the plan of a certified copy of a domestic relations  
38 order and a written request for a determination that the domestic relations  
39 order is a plan approved domestic relations order, the plan shall promptly  
40 issue a written notice of receipt stating that the domestic relations order  
41 and request were received to the participant and alternate payee at the  
42 addresses on file, if any.

43       D. The plan has a determination period to issue a written  
44 determination indicating whether a domestic relations order qualifies as a  
45 plan approved domestic relations order. If the participant is receiving

1 benefits during the determination period, and if the plan can determine the  
2 amount of the benefits that currently would be payable to the alternate payee  
3 if the domestic relations order were a plan approved domestic relations  
4 order, the plan shall ~~segregate the amount~~ HOLD THE SEGREGATED FUNDS and  
5 shall pay the remaining portion of the benefits to the participant. If the  
6 plan determines the domestic relations order is a plan approved domestic  
7 relations order, the plan shall pay the participant and alternate payee  
8 pursuant to the plan approved domestic relations order ~~on the first day of~~ IN  
9 the month following the month in which the determination was issued, or ~~the~~  
10 ~~first day of~~ IN the month following the month in which a benefit is payable  
11 under the plan approved domestic relations order, whichever is later. If the  
12 plan determines the domestic relations order fails to qualify as a plan  
13 approved domestic relations order, the plan shall specify in its  
14 determination how the domestic relations order is deficient and how it may be  
15 amended to qualify as a plan approved domestic relations order. If the  
16 participant is currently receiving benefits, and if the plan can determine  
17 the amount of segregated funds that would be payable to the alternate payee  
18 if the domestic relations order were a plan approved domestic relations  
19 order, the plan shall hold the segregated funds during the cure period to  
20 allow the parties to submit a certified copy of an amended domestic relations  
21 order and a written request for a determination that the amended domestic  
22 relations order is a plan approved domestic relations order. During the cure  
23 period, the plan shall pay the participant's portion to the participant. At  
24 the end of the cure period, if the issue of whether an amended domestic  
25 relations order qualifies as a plan approved domestic relations order remains  
26 undetermined or if an amended domestic relations order is determined not to  
27 be a plan approved domestic relations order, the plan shall pay the  
28 segregated funds and the participant's portion to the participant. The  
29 participant shall hold the segregated funds in trust for the alternate payee  
30 as provided in subsection J. If an amended domestic relations order that is  
31 submitted after the expiration of the cure period is determined to be a plan  
32 approved domestic relations order, the plan shall make payments to an  
33 alternate payee under the plan approved domestic relations order only  
34 prospectively. A determination by the plan that a domestic relations order  
35 is not a plan approved domestic relations order does not prohibit a  
36 participant or alternate payee from submitting an amended domestic relations  
37 order to the plan.

38 E. Each participant and alternate payee is responsible for maintaining  
39 a current mailing address on file with the plan. The plan has no duty to  
40 attempt to locate any participant or alternate payee. The plan has no duty  
41 to provide a notice of receipt or determination or pay benefits by means  
42 other than mailing the notice or payments to the participant or alternate  
43 payee at the last known address that is on file with the plan. If the  
44 address of an alternate payee is unknown to the plan, but benefits are

1 payable to the alternate payee pursuant to a plan approved domestic relations  
2 order, the plan shall either:

3 1. Hold the alternate payee's portion until such a time as the  
4 alternate payee provides the plan with a current address. **ONCE THE PLAN IS**  
5 **NOTIFIED OF THE ALTERNATE PAYEE'S CURRENT ADDRESS, THE PLAN SHALL**  
6 **PROSPECTIVELY PAY THE ALTERNATE PAYEE'S PORTION TO THE ALTERNATE PAYEE.**

7 2. Pay the alternate payee's portion to the participant, who shall  
8 hold the alternate payee's portion in trust as provided in subsection J,  
9 until such a time as the alternate payee is located. At that time the  
10 participant shall pay the alternate payee's portion directly to the alternate  
11 payee.

12 F. ~~Once the plan is notified of the alternate payee's current address,~~  
13 ~~the plan shall prospectively pay the alternate payee's portion to the~~  
14 ~~alternate payee.~~ If the address of a participant is unknown to the plan, but  
15 benefits are payable to the participant pursuant to a plan approved domestic  
16 relations order, the plan shall hold the participant's portion until the  
17 participant provides the plan with a current address.

18 G. If the alternate payee identified in a plan approved domestic  
19 relations order predeceases the participant and the plan approved domestic  
20 relations order does not otherwise provide for the disposition of the  
21 alternate payee's interest the plan shall pay the alternate payee's portion  
22 to the personal representative of the deceased alternate payee pursuant to  
23 this subsection. **THE PERSONAL REPRESENTATIVE IS RESPONSIBLE FOR MAINTAINING**  
24 **A CURRENT MAILING ADDRESS ON FILE WITH THE PLAN. THE PLAN HAS NO DUTY TO**  
25 **ATTEMPT TO LOCATE ANY PERSONAL REPRESENTATIVE.** The plan is not responsible  
26 for making benefit payments to a personal representative until the personal  
27 representative has **BOTH**:

28 1. Persuaded the plan that the personal representative is authorized  
29 to receive payments designated for the deceased alternate payee.

30 2. Provided the plan with an address to which the payments should be  
31 sent. ~~The personal representative is responsible for maintaining a current~~  
32 ~~mailing address on file with the plan. The plan has no duty to attempt to~~  
33 ~~locate any personal representative.~~

34 H. If, within thirty days after the date the plan verifies an  
35 alternate payee's death, a personal representative does not make demand on  
36 the plan for the alternate payee's portion, the plan shall either:

37 1. Hold the alternate payee's portion until the time a personal  
38 representative makes a proper demand for payment of the alternate payee's  
39 portion.

40 2. Remit the alternate payee's portion to the participant, who shall  
41 hold the amounts in trust for the estate of the alternate payee until the  
42 personal representative is identified. At that time the participant shall  
43 pay the alternate payee's portion paid by the plan to the participant to the  
44 personal representative.

1    Thereafter, the plan shall prospectively pay the alternate payee's portion to  
2    the personal representative.

3           I. Amounts held or paid pursuant to this section shall not accrue  
4    interest unless otherwise prescribed by this article.

5           J. The plan is not liable to the participant, the alternate payee, any  
6    personal representative of the estate of an alternate payee or any other  
7    person for any amount paid, withheld or disbursed by the plan pursuant to  
8    this section. If one or more payments are made by the plan to a person not  
9    otherwise entitled to receive the payments, the recipient of the payment is  
10   designated a constructive trustee for the payment received and, together with  
11   the marital community, if any, is the sole party against whom an action may  
12   be brought to recover the payment.

13          K. The plan may adopt policies and procedures that govern the  
14   implementation of this section.